

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**RAMON M. CORA,**

**Plaintiff**

**v.**

**MARK ROCKOVICH,**

**Defendant**

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**CIVIL NO. 3:10-CV-2416**

**(Judge Munley)**

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**MEMORANDUM**

**Background**

Ramon M. Cora ("Plaintiff"), an inmate presently confined at the Luzerne County Correctional Facility, Wilkes-Barre, Pennsylvania, initiated this *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. Named as sole defendant is Captain Mark Rockovich, who is described as being an employee of the Luzerne County Correctional Facility. Plaintiff will be granted *in forma pauperis* status for the sole purpose of the filing of this action.<sup>1</sup> However, Cora's action will be dismissed without prejudice.

Plaintiff states that he is presently serving concurrent sentences. His Complaint alleges that Captain Rockovich "is trying to make me do a consecutive sentence" which has allegedly resulted in Plaintiff being confined beyond his scheduled release date of October 2, 2010. Doc. 1, ¶ IV. Cora adds that based upon the Defendant's improper sentence calculation he will not be

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<sup>1</sup> Plaintiff correctly notes that he recently filed a civil rights action with this Court. He was granted leave to proceed *in forma pauperis* in that proceeding. See Cora v. Skurkis, et al., Civil Action No. 3:10-CV-2059.

released until April 8, 2011. As relief, Plaintiff seeks “justice on my behalf and compensation for lost wages since October 2, 2010.” Id. at ¶ V.

### **Discussion**

When considering a complaint accompanied by a motion to proceed in forma pauperis, a district court may rule that process should not issue if the complaint is malicious, presents an indisputably meritless legal theory, or is predicated on clearly baseless factual contentions. Neitzke v. Williams, 490 U.S. 319, 327-28 (1989), Douris v. Middleton Township, 293 Fed. Appx. 130, 132 (3d Cir. 2008). Indisputably meritless legal theories are those “in which either it is readily apparent that the plaintiff’s complaint lacks an arguable basis in law or that the defendants are clearly entitled to immunity from suit ... .” Roman v. Jeffes, 904 F.2d 192, 194 (3d Cir. 1990) (quoting Sultenfuss v. Snow, 894 F.2d 1277, 1278 (11th Cir. 1990)).

Inmates challenging the duration of their confinement or seeking earlier or speedier release must assert such claims in a properly filed habeas corpus petition. Preiser v. Rodriguez, 411 U.S. 475 (1975), Telford v. Hepting, 980 F.2d 745, 748 (3d Cir.), cert. denied 510 U.S. 920 (1993). Federal habeas corpus review is the appropriate remedy when “the deprivation of rights is such that it necessarily impacts the fact or length of detention.” Leamer v. Fauver, 288 F.3d 532, 540 (3d Cir. 2002). The Third Circuit Court of Appeals in Woodall v. Federal Bureau of Prisons, 432 F.3d 235, 241 (3d Cir. 2005), reiterated that federal habeas corpus review allows a prisoner “to challenge the ‘execution’ of his sentence.”

Accordingly, to the extent that Cora is seeking his release from confinement or recalculation of a criminal sentence, such a request for injunctive relief is not properly asserted in a civil rights complaint under the standards announced in Preiser and Leamer. See Georgevich v.

Strauss, 772 F.2d 1078, 1086 (3d Cir. 1985) (civil rights claims seeking release from confinement sound in habeas corpus). Likewise, a civil rights claim for declaratory relief "based on allegations ... that necessarily imply the invalidity of the punishment imposed, is not cognizable" in a § 1983 civil rights action. Edwards v. Balisok, 520 U.S. 641, 646 (1997).

Cora also seeks an award of compensatory damages. Specifically, he asks that the Defendant be ordered to compensate him for lost wages which he has suffered since October 2, 2010. In Heck v. Humphrey, 512 U.S. 477 (1994), the United States Supreme Court ruled that a constitutional cause of action for damages does not accrue "for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid", until the Plaintiff proves that the "conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus." Id. at 486-87.

Thus, pursuant to the rationale established in Heck, Cora's pending request for monetary damages is premature because he cannot maintain a cause of action for an unlawful calculation for a criminal sentence until that sentence calculation is rendered invalid.

### **Conclusion**

Since Plaintiff's complaint is "based on an indisputably meritless legal theory" it will be dismissed, without prejudice, as legally frivolous. Wilson, 878 F.2d at 774. Cora, if he so chooses, may reassert his claim of being subject to an improper sentence calculation via a

properly filed federal habeas corpus petition pursuant to 28 U.S.C. § 2254.<sup>2</sup> If Plaintiff is able to successfully challenge the sentence calculation at issue herein, under Heck, he could then reassert his claim for compensatory damages in a properly filed civil rights complaint. An appropriate Order will enter.

**BY THE COURT:**



**JUDGE JAMES M. MUNLEY**  
United States District Court

**DATED: NOVEMBER 30, 2010**

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<sup>2</sup> The Clerk of Court will be directed to provide Plaintiff with a copy of this Court's form § 2254 habeas corpus petition which is routinely provided to *pro se* litigants as well as an *in forma pauperis* application.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**RAMON M. CORA,**

**Plaintiff**

**v.**

**MARK ROCKOVICH,**

**Defendant**

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**CIVIL NO. 3:10-CV-2416**

**(Judge Munley)**

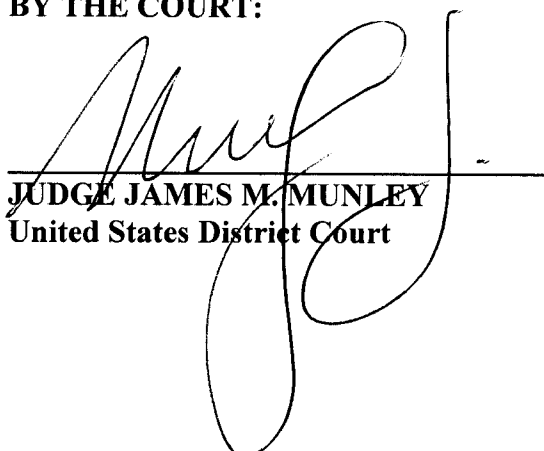
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**ORDER**

**AND NOW**, to wit, this 30 day of November, 2010, for the reasons set forth in the foregoing Memorandum, it is hereby **ORDERED** that:

1. Plaintiff is granted temporary *in forma pauperis* status for the sole purpose of the filing of this action.
2. Cora's complaint is **DISMISSED WITHOUT PREJUDICE** as frivolous pursuant to 28 U.S.C. § 1915 (e)(2)(B)(I).
3. The Clerk of Court is directed to provide Plaintiff with a copy of this Court's form § 2254 habeas corpus petition which is routinely provided to *pro se* litigants as well as an *in forma pauperis* application.
4. The Clerk of Court is directed to **CLOSE** this case.

5. Any appeal from this Order will be deemed frivolous, without probable cause and not taken in good faith.

**BY THE COURT:**



**JUDGE JAMES M. MUNLEY**  
**United States District Court**

**Petition for Relief From a Conviction or Sentence  
By a Person in State Custody**

(Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus)

**Instructions**

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from the conviction or the sentence. This form is your petition for relief.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. You must pay a fee of \$5. If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you. If your account exceeds \$ 50.00, you must pay the filing fee.
7. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
8. When you have completed the form, send the original and two copies to the Clerk of the United States District Court at this address:

Clerk, United States District Court, Middle District of Pennsylvania  
P.O. Box 1148  
Scranton, PA 18501-1148

9. **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

<b>United States District Court</b>	District _____
Name (under which you were convicted): _____	Docket or Case No.: _____
Place of Confinement: _____	Prisoner No.: _____
Petitioner ( <u>include</u> the name under which you were convicted) _____ Respondent (authorized person having custody of petitioner) _____ v. _____	
The Attorney General of the State of _____	

**PETITION**

1. (a) Name and location of court that entered the judgment of conviction you are challenging: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (b) Criminal docket or case number (if you know): \_\_\_\_\_
2. (a) Date of the judgment of conviction (if you know): \_\_\_\_\_  
 (b) Date of sentencing: \_\_\_\_\_
3. Length of sentence: \_\_\_\_\_
4. In this case, were you convicted on more than one count or of more than one crime?    Yes ☐    No ☐
5. Identify all crimes of which you were convicted and sentenced in this case: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
6. (a) What was your plea? (Check one)
 

(1) Not guilty <input type="checkbox"/>	(3) Nolo contendere (no contest) <input type="checkbox"/>
(2) Guilty <input type="checkbox"/>	(4) Insanity plea <input type="checkbox"/>



(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? \_\_\_\_\_

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(c) If you went to trial, what kind of trial did you have? (Check one)

Jury ☐ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes ☐ No ☐

8. Did you appeal from the judgment of conviction?

Yes ☐ No ☐

9. If you did appeal, answer the following:

(a) Name of court: \_\_\_\_\_

(b) Docket or case number (if you know): \_\_\_\_\_

(c) Result: \_\_\_\_\_

(d) Date of result (if you know): \_\_\_\_\_

(e) Citation to the case (if you know): \_\_\_\_\_

(f) Grounds raised: \_\_\_\_\_

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(g) Did you seek further review by a higher state court? Yes ☐ No ☐

If yes, answer the following:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Result: \_\_\_\_\_

(4) Date of result (if you know): \_\_\_\_\_

(5) Citation to the case (if you know): \_\_\_\_\_

(6) Grounds raised: \_\_\_\_\_

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(h) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☐

If yes, answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation to the case (if you know): \_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☐ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(3) Third petition: Yes ☐ No ☐

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: \_\_\_\_\_

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12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

**GROUND ONE:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

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(b) If you did not exhaust your state remedies on Ground One, explain why: \_\_\_\_\_

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(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

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(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

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Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: \_\_\_\_\_

**GROUND TWO:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

(b) If you did not exhaust your state remedies on Ground Two, explain why: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_  
 \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_  
 \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: \_\_\_\_\_

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**GROUND THREE:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

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(b) If you did not exhaust your state remedies on Ground Three, explain why: \_\_\_\_\_

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(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

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(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

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Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: \_\_\_\_\_

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**GROUND FOUR:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

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(b) If you did not exhaust your state remedies on Ground Four, explain why: \_\_\_\_\_

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(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

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(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

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Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

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(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

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Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_
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13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction?      Yes ☐ No ☐

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: \_\_\_\_\_

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- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: \_\_\_\_\_
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14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition?      Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. \_\_\_\_\_

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15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. \_\_\_\_\_

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: \_\_\_\_\_

(b) At arraignment and plea: \_\_\_\_\_

(c) At trial: \_\_\_\_\_

(d) At sentencing: \_\_\_\_\_

(e) On appeal: \_\_\_\_\_

(f) In any post-conviction proceeding: \_\_\_\_\_

(g) On appeal from any ruling against you in a post-conviction proceeding: \_\_\_\_\_

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☐

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: \_\_\_\_\_

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
- (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
- (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: \_\_\_\_\_

\_\_\_\_\_

or any other relief to which petitioner may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this  
Petition for Writ of Habeas Corpus was placed in the prison mailing system on \_\_\_\_\_  
\_\_\_\_\_ (month, date, year).

Executed (signed) on \_\_\_\_\_ (date).

\_\_\_\_\_  
Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing  
this petition. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\* \* \* \* \*

# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_  
*Plaintiff*

v.

\_\_\_\_\_  
*Defendant*

)  
)  
) Civil Action No.  
)  
)

## APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: \_\_\_\_\_.

If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are: \_\_\_\_\_.

My gross pay or wages are: \$ \_\_\_\_\_, and my take-home pay or wages are: \$ \_\_\_\_\_ per  
(specify pay period) \_\_\_\_\_.

3. *Other Income.* In the past 12 months, I have received income from the following sources (check all that apply):

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (b) Rent payments, interest, or dividends          | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's compensation payments  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts, or inheritances                         | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other sources                              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

4. Amount of money that I have in cash or in a checking or savings account: \$ \_\_\_\_\_ .

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name *(describe the property and its approximate value)*:

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses *(describe and provide the amount of the monthly expense)*:

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations *(describe the amounts owed and to whom they are payable)*:

*Declaration:* I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Applicant's signature*

\_\_\_\_\_  
*Printed name*

# UNITED STATES DISTRICT COURT

for the

Middle District of Pennsylvania

\_\_\_\_\_  
*Plaintiff*

v.

\_\_\_\_\_  
*Defendant*

)  
)  
) Civil Action No.  
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\_\_\_\_\_  
*Applicant's signature*

\_\_\_\_\_  
*Printed name*